

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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NICOLE THOMPSON, SHIRLEY
THOMPSON, AND DENNIS
THOMPSON,

Plaintiffs,

vs.

AUTOLIV ASP, INC., an Indiana
Corporation; TRW AUTOMOTIVE
U.S. LLC, a Delaware Corporation
licensed in Nevada,

Defendants.

2:09-CV-01375-PMP-LRL

ORDER

On April 27, 2007, Plaintiff Nicole Thompson was involved in an automobile accident in Las Vegas, Nevada resulting in physical injuries. Nicole's parents, Shirley and Dennis Thompson arrived at the hospital shortly after the accident and while visiting her, Nicole appeared to suffer a stroke. As a result, Shirley and Dennis Thompson have joined their daughter, Nicole, as Co-Plaintiffs in this action. The Third Cause of Action in Plaintiffs' Amended Complaint (Doc. #33) sets forth a claim for Negligent Infliction of Emotional Distress on behalf of Shirley Thompson and Dennis Thompson as result of the stroke they witnessed their daughter suffer.

Before the Court for consideration is Defendants' Joint Motion for Summary Judgment on All Claims by Plaintiffs Dennis Thompson and Shirley Thompson (Doc. #45). Plaintiffs' filed an Opposition (Doc. #46) on October 15, 2010.

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1 The record before the Court is clear and the motion fully briefed, and the Court
2 concludes no argument is necessary.

3 Under Rule 56(c) of the Federal Rules of Civil Procedure, summary judgment
4 is appropriate when, construing all facts in favor of non-moving party there are no
5 genuine issues of material, entitling the moving party to judgment as matter of law.
6 The Court finds that Defendants Autoliv ASP, Inc., and TRW Automotive U.S. LLC,
7 are entitled to summary judgment on Plaintiffs Shirley Thompson and Dennis
8 Thompson's claim for Infliction of Emotional Distress set forth in Count Three of
9 Plaintiff's Amended Complaint.

10 The tort of negligent infliction of emotional distress historically compensated
11 a bystander for suffering serious emotional distress resulting in physical symptoms
12 caused by apprehending the death or serious injury of a loved one due to the
13 defendants negligence. Chowdhry v. NLVH, Inc., 851 P.2d 459 (Nev.1993). Where
14 a plaintiffs emotional distress damages "are not secondary to physical injuries, but
15 rather, precipitate physical symptoms, either a physical impact must have occurred
16 or, in the absence physical impact, proof of 'serious emotional distress' causing
17 physical injury or illness must be presented." Olivero v. Lowe,
18 995 P.2d 1023, 1026 (Nev.2000).

19 Defendants argue summary judgment is appropriate here because Plaintiffs
20 have failed to demonstrate the alleged emotional distress injury suffered by Shirley
21 and Dennis Thompson were foreseeable. State v. Eaton, 710 P.2d 1370, 1377-78
22 (Nev.1985). For the reasons set forth in Defendants' Motion (Doc. #45), the Court
23 agrees.

24 Additionally, the Court finds that Plaintiffs have failed to demonstrate the
25 stress they suffered in witnessing their daughter experiencing a stroke was sufficient
26 to support a claim for Infliction of Emotional Distress. Chowdhry v. NLVH, Inc.,

1 851 P.2d 459 (Nev.1993); and Alam vs Reno Hilton Corp., 819 F.Supp. 905, 911
2 (D.Nev.1993).

3 **IT IS THEREFORE ORDERED** that Defendants' Joint Motion for
4 Summary Judgment on All Claims by Plaintiffs Dennis Thompson and Shirley
5 Thompson (Doc. #45) is **GRANTED** and the Clerk of Court shall forthwith enter
6 judgment in favor of Defendants Autoliv ASP, Inc., and TRW Automotive U.S.
7 LLC, and against Plaintiffs Shirley Thompson and Dennis Thompson as to Plaintiffs'
8 Third Cause of Action for Inflection of Emotional Distress.

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10 DATED: November 1, 2010.

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13 PHILIP M. PRO
14 United States District Judge
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